

**RUMSON ZONING BOARD OF ADJUSTMENT
DECEMBER 15, 2015
MINUTES**

Chairman Brodsky called the regular meeting to order at 7:30 p.m. with the Pledge of Allegiance. The Roll was called with the following members present: Brodsky, Blum, Lizotte, Seaman, Wood, Cottrell, Thomson, Torcivia, Duddy. Also present: Bernard Reilly (Board Attorney), Fred Andre, Zoning Officer), State Shorthand.

The requirements of the Open Public Meetings Act were stated as met.

Paul & Pamela McSweeney, 96 Ridge Road

Brooks Von Arx, attorney, appeared on behalf of the applicants and advised that they are the contract purchasers of the property. The lot was created as a result of a rearrangement of lot lines on Azalea Lane and Ridge Road. It is a flag lot with 100' on Ridge Road and 300' going back to the rear.

At the time of the subdivision, there was no plan for a house on the flag lot. The house on Azalea Lane has been completed. The lot in question is vacant at present. The prior approval showed a building envelope for a conforming house, set back 100' from the front yard setback. His clients became interested in the property several months ago; however, the restrictions on the prior approval make it difficult to build a house that makes sense on the lot. They have asked their architect to design a house that takes advantage of the topography and the way a new house should be oriented. A variance is required to skew the house somewhat to take advantage of the property.

Mr. McSweeney was sworn in at this time. He currently resides at 67 Lafayette St. in Rumson. They became interested in this property five months ago. At that time he asked an architect to help with a plan for a home on the property. He was aware of the approved building envelope, and thought it would be difficult to build a house on the property as approved, because of the topography and lot lines. He has spoken to his neighbor, who expressed their approval for this application. They could not be present this evening, but they have sent a letter to that effect. The other neighbors also expressed support for the application and also sent letters to the board. The purchase arrangements are based on an agreement to place the house on the lot 50' from the front property line, instead of 100', as approved.

Mr. Reilly reviewed that the Planning Board resolution from 2011 approving the subdivision. He noted the condition on where the house should be, and Mr. Von Arx said it was based on what abided with the ordinance at that time and said that the development would be conforming. They are asking for a variance to allow the proposed house to be different than what was shown on the approved subdivision plan.

Mrs. Seaman said she was on the Planning Board at that time, stating that the lot was left at the bare minimum at the time of approval for any construction, and required that any new construction be conforming. Mr. Von Arx said that their architect will testify that this would not be practical.

Paul Damiano, architect, was sworn in at this time, and the Board accepted his qualifications. He developed the plan for the construction of a house on the lot. He noted the buildable area on the

map provided, showing the proposed setbacks, as well as the line where a 100' setback would occur. The map was marked A-1 into the record. He noted that the plans also now show a building

buffer on the front neighbor's side (12/11/15 revision). He showed the Board an aerial view of the lots, noting the flag lot in question. He showed the Board photos of different views of the lot:

- From Ridge Road;
- Driveway leading up to the flag portion of the lot;
- Diagonal view once you reach the flag;
- Buffer along back lot line;
- Drop off of grade in the front;
- Back of the lot showing taller trees.

The house would be oriented from the front of the house toward the driveway. They did a study to see what would be the best orientation for the home. There was a house with a similar orientation on the lot for about 50 years. His design shows a shingle-style house – about 4,000 sq. ft. in size. If the house was pushed back farther, they would run into a topography problem with the grade in the rear. They also need to have a side entry garage, and this gives them a little more yard area. From the neighbor's viewpoint, it was Mr. Damiano's opinion that it would be more desirable to see the side of a home that doesn't have as much activity as viewing it from another side.

Mr. Reilly noted that a letter from one of the neighbors was received (the Sullivan's), which he reviewed to note their support of the application. Mr. Von Arx also presented a letter from another neighbor (Brunell) also in support of the application.

Mr. Andre asked if the landscaping issue raised by the Sullivan's should be addressed, and Mr. Von Arx said they would be willing to address all the issues they propose. Mr. Damiano said they discussed screening from the neighbors, and this is now shown on the revised plan.

Mr. Reilly raised the issue of the 2011 approval resolution and the conditions included in that document. Mr. Von Arx said the tree situation on the lot has been addressed to the satisfaction of the engineer and the neighbors. Mr. Andre noted that there have been several changes since the original resolution, including other requirements in that document. It was noted that T&M Assoc. has approved all the changes since that resolution.

Chairman Brodsky asked if the Board can approve a variance and still be in compliance with the Planning Board's approval of the subdivision. Mr. Reilly said he thinks they can, and he explained his opinion on this.

Mr. Blum questioned Special Condition #4 in the resolution regarding change in the conditions, and Mr. Von Arx said they are asking the Board to exercise their jurisdiction regarding the ordinance requirement and allow them to modify the prior approval. Mr. Reilly questioned whether the Planning Board should have been the venue for this request to modify conditions set forth in their approval resolution. Mr. Von Arx said it was his opinion that the Planning Board

said any building needed to be conforming, and this Board should be able to hear their variance request for the deficient setback.

Mrs. Seaman thinks the conditions placed on the property by the Planning Board should be taken into consideration. Mr. Von Arx thinks the conditions set forth by the Planning Board could be

modified if the applicant can show that the rules could be relaxed to provide a practical placement of the home.

Mr. Blum thinks the question is if the setback line on the original plan (100') is a zone requirement, and would it be necessary to adhere to this line. He thinks it is unclear as to what the assigned setback should be.

Mr. Andre was asked to explain the building envelope, and Mr. Andre said the Planning Board asked the Borough Engineer for their input as to where the 100' setback should be applied. Technically, it could be a side line, and Mr. Blum agreed that it would not be uncommon that this would be a side or rear yard line.

Mr. Von Arx again stated he felt it is within this board's jurisdiction to grant a variance in this case.

Mr. Blum would agree to consider this, unless it is precluded based on the decision of the Planning Board. Mr. Reilly agrees with Mr. Blum, noting his experience in this field.

Scott Soltas, 95 Ridge Road, asked to see the plans, and he was shown the plan by the applicant, and a short recess occurred at this time to accomplish this.

Mr. Blum asked about the proposed cross access easements on the lot, and Mr. Von Arx pointed out a fenced area in the rear, which will remain at present so that the landscaping would remain and access would be achieved for a portion of this area.

Chairman Brodsky feels there may be an issue with the request as to the positioning of the house. He thinks the proposal seems to take advantage of the topography of the land, and the building area is already 200' back from the road. He thinks the Planning Board tried to create a lot that could provide a conforming house. He thinks the Board should be able to grant a variance as requested, and Mr. Reilly agrees.

Mr. Thompson thinks they have communicated with the neighbors and received positive feedback. He thinks they have done a good job with the plan. He moved to approve the application.

Mr. Blum thinks it is a reasonable solution for the flag lot, and he seconded Mr. Thompson's motion.

Roll Call Vote: Ayes – Brodsky, Blum, Lizotte, Cottrell, Thompson, Torcivia, Wood, Duddy, Seaman

Nays – None

Motion carried.

Shawn & Christine Reynolds, 15 Blackpoint Horseshoe

Mark Aikens, attorney, appeared on behalf of the applicants. He reviewed their request to enclose an existing pergola and rebuild 30% of the west side of the house and add a portion to the driveway to allow a circular ingress and egress. They are asking to increase the lot coverage (11,051 sq. ft. permitted / 12,250.66 sq. ft. existing / 13,075.02 sq. ft. proposed). A prior variance was granted for this property in 1998 regarding the pool equipment.

Michael Unger, architect, was sworn in, and the board accepted his qualifications. He explained his plan that will correct problems with the inside of the house:

- Kitchen is too small;
- No family living space;
- Dining room is too small;
- Inadequate laundry area.

To accomplish these corrections, he can add some floor area (367 sq. ft.), but no variance is required for this. The porch becomes floor area because they want to be able to install glass panels in the off season. They would not increase the building coverage. They also corrected a situation with the driveway, enabling them to egress the property without having to K-turn, which is especially difficult when delivery people come to the house. His plan provides a turning area to make it easier to exit the driveway. This, however, causes an increase in the lot coverage. They are keeping the look of the building the same, but raising the ridge over the garage about 3'. They are not increasing the overall height of the building. The picture of the existing house was marked A-1, and the proposed changes were marked A-2. Pictures of the side and back of the house were also shown and marked A-3 and A-4.

The pergola area was shown (seen on A-4), and Mr. Unger described the changes proposed for this area, showing another rendering of the new condition. The materials used will be consistent with what currently exists on the house. The foundation will be reused and not exceed its limitations.

Chairman Brodsky noted that the coverage is increasing by 800 sq. ft. and the floor area is increasing by 367 sq. ft.

Mrs. Seaman asked about any special cautions with the driveway area in connection with the existing wetlands, and Mr. Unger said this area would not be disturbed, and there are no current problems with this area.

Mrs. Seaman also asked about a large Sycamore tree near the pergola, and Mr. Unger said they would need to prune it in the area near the pergola, but they do not intend to take it down. He noted that no heavy equipment would be required in this area that would compromise the tree. Chairman Brodsky noted that the area of the pergola already exists as a structure in this area.

Debra Williams, 17 Blackpoint Horseshoe, was sworn in and commented that she has reviewed the plans and thinks it will be a very nice addition to the neighborhood. She asked about the variances for the pool equipment. It was noted that a variance was created in 1998 for this equipment. Mrs. Williams questions the numbers on the plan for this equipment. The equipment

is also not landscaped or screened. Mr. Unger said he spoke to Mr. Santry, who did the survey for the 1998 variance. They asked him to resurvey the property, and Mr. Unger found it to be accurate, and his plans reflect this survey. The equipment is 3.9', which he said agrees to what is on their plan. A picture of the neighbor's house on this side was shown (A-5) and distributed to the Board members (colored Google Earth map showing the location of the Reynolds house and the property in the immediate area). The east side of the property has a lot of landscaping, and there is also an existing 6' fence. Photos for the fence were also shown (A-6 & A-7). Black and white photos

depict the fence on the property, along with the landscaping on the lot. There are buildings on the east side (Williams' side) – pool house and garage. Mrs. Williams said any landscaping or fencing that was there was affected by Super Storm Sandy. She noted that the new landscaping on their side is fairly new and not mature, which does not screen the pool equipment from her yard, which she thinks is unsightly. She would like to see the equipment moved to comply with the ordinance, or additional landscaping or fencing provided.

Mr. Aikens has visited the site and noted a substantial garage and pool house on this side. The pool equipment is 3' from the property line, with a 6' stockade fence. Mrs. Williams disagreed and said from the east side of the property you can see the pool equipment. Mr. Aikens said they would agree to determine what is compliant and what needs to be done.

Mr. Reilly said that the Board could require the equipment be moved to comply with the ordinance, and Mr. Aikens said they would agree to comply to the 1998 approval by the Planning Board. Mr. Reilly suggested submitting a revised plan showing landscaping, fencing, etc., and possibly meet with the neighbors to come to an agreement. The application could be carried to the next meeting. Ultimately, it will come down to what the board thinks is reasonable, if they can find an agreement with the neighbor, etc. Mr. Aikens said they will agree to this. The Board's feeling was that the pool equipment would not need to be moved to the other side of the house, but only buffered and screened.

Jason Fichter, Planner, was sworn in, and the Board accepted his qualifications. He reviewed the variances required under the C-1 Hardship variances:

- Interior lot shape (66.42 sq. ft. existing / 100 sq. ft. required);
- Side yard variance (20.2' existing / 26.5' required – 40.56' total existing / 54' required)

These conditions are all existing, and no changes are proposed.

- Lot coverage (11,051 sq. ft. permitted / 12,250 sq. ft. existing / 13,075 sq. ft. proposed).

The lot coverage is a function of usable lot area. There are some naturally-occurring conditions that affect this, including wetland and pond areas. If they could use their entire lot, they could comply, but subtracting the pond and wetlands creates a practical difficulty in creating a conforming condition in accordance with the ordinance. He feels it is a hardship related to the lot coverage, and the only change in lot coverage is because of the addition of the driveway area, which creates a turn-around area for vehicles. They have a long distance from the street, and this makes sense to add this area, which provides a safer and more desirable condition on the property. He also thinks this will positively affect the property values in the neighborhood.

He feels these improvements will go unnoticed by the neighbors, as the house is set back from the road, and no substantial detriment to the public will occur. This is a permitted use and reconstruction in the same location.

Mr. Thompson asked about the tree in the rear, and Mr. Unger said he has located all the trees on the plan, although he did not know the exact type of this tree.

Mr. Cottrell commented that he thinks the application makes sense and moved to approve it, subject to them working something out with the neighbor and resubmitting a plan to show any revised landscaping and fencing in relationship to the 1998 resolution. If no agreement occurs, they will need to come back to the January 19th meeting. Mr. Torcivia seconded the motion.

Roll Call Vote: Ayes – Brodsky, Blum, Lizotte, Cottrell, Thompson, Torcivia, Wood, Duddy,
Seaman

Nays – None

Motion carried.

Resolutions

1. **63 Washington St., LLC, 63 Washington St.** – Approval for addition. Mr. Thompson moved to adopt the resolution, and Mr. Torcivia seconded.

Roll Call Vote: Ayes (Eligible) – Brodsky, Seaman, Wood, Lizotte, Thompson, Torcivia
Nays – None

Motion carried.

2. **1 Maple River Venture, LLC, 1 Allen St.** – Approval to raze existing structure and build new residence. Mr. Thompson moved to adopt the resolution, and Mr. Torcivia seconded.

Roll Call Vote: Ayes (Eligible) – Brodsky, Seaman, Lizotte, Thompson, Torcivia, Blum
Nays – None

Motion carried.

Approval of Minutes

Motion was made and seconded to approve the November minutes, with corrections. Voice Vote: Ayes, unanimous.

There being no further business, motion was made and seconded to adjourn. Voice Vote: Ayes, unanimous. The meeting was adjourned at 9:10 p.m.

The next meeting will be **January 19, 2016.**

Respectfully submitted,

Patricia Murphy
Clerk

